

AGRICULTURAL LABOR RELATIONS BOARD  
2000 CASE DIGEST SUPPLEMENT (VOL. 26) **REVISED**

(Please note that this revised supplement omits entries for Coastal Berry Co., LLC, 26 ALRB No. 3, as that decision was annulled by the Court of Appeal, at 94 Cal.App.4th 1)

- 306.01      Section 1156.7(b)(1) codifies NLRB's "bright line" rule that a contract must be in writing and executed by all parties in order to act as a bar to an election petition. NASH DE CAMP COMPANY, 26 ALRB No. 4
- 319.01      Parties do not have the authority to exclude agricultural employees from certified bargaining units without the concurrence of the Board. NASH DE CAMP COMPANY, 26 ALRB No. 4
- 319.03      There is no statutory language indicating a legislative preference or presumption for a statewide unit in separate sites which are not geographically contiguous. The only statutory presumption in favor of statewide bargaining units is the irrebutable presumption in favor of statewide units where an ER's operations are in contiguous geographical areas. (Lab. Code §1156.2.) To extent that *Prohoroff Poultry Farms* (1983) 9 ALRB No. 68, *Cream of the Crop* (1984) 10 ALRB No. 43, or any other Board decisions are inconsistent, they are overruled. COASTAL BERRY COMPANY, LLC, 26 ALRB No. 2
- 319.04      When ER operates in two or more noncontiguous areas, Board has discretion to determine whether statewide unit or multiple units are more appropriate. Board will apply the NLRB's community of interest factors in making its determination. These factors include: 1)The physical or geographical location(s) in relation to each other; 2)The extent to which administration is centralized, particularly with regard to labor relations; 3)The extent to which employees at different locations share common supervision; 4)The extent of interchange among employees from location to location; 5)The nature of the work performed at the various locations and the similarity or dissimilarity of the skills involved; 6)The similarity or dissimilarity in wages, hours, and other terms and conditions of employment; and 7)The pattern of bargaining history among employees. COASTAL BERRY COMPANY, LLC, 26 ALRB No. 2
- 319.04      Based on lack of interchange of employees between ER's geographically noncontiguous operations, ER's determination to keep labor pools for the two operations separate, the degree of autonomy possessed by ER's regional managers and general lack of common supervision of employees in the two regions, the fact that wages of the separate groups of employees are different, and the fact that quality standards and initiation of employee discipline are lodged in local foremen, Board holds that ER's two separate geographical areas of operations lack the requisite community of interest to constitute a statewide unit. COASTAL BERRY COMPANY, LLC, 26 ALRB No. 2

- 319.04 The subjective desires of employees do not constitute one of the specific factors to be considered in determining an appropriate bargaining unit, and IHE properly excluded evidence on the issue.  
COASTAL BERRY COMPANY, LLC, 26 ALRB No. 2
- 319.07 The issue of whether new groups of employees should be considered accreted into a certified unit may be raised whenever it becomes a matter of dispute, whether in a UC, ULP, or election proceeding.  
NASH DE CAMP COMPANY, 26 ALRB No. 4
- 323.02 IHE properly refused to allow employer to introduce evidence on last scheduled day of hearing where employer had moved to quash a subpoena seeking the same information and had submitted a response to the decertification petition, under penalty of perjury, which contained statements which were misleading, if not intentionally false, and were inconsistent with the evidence proffered at hearing.  
NASH DE CAMP COMPANY, 26 ALRB No. 4
- 324.02 ES dismissal of objection and set for hearing question of whether a forewoman predicted that the employer would go out of business if UFW won the election, and whether the statement was made by a management official or by someone the employees would view as being in a position to speak for management.  
COASTAL BERRY COMPANY, LLC, 26 ALRB No. 1
- 324.02 Board overruled ES dismissal of objection and set for hearing question of whether a foreman told employees that a particular field would not be planted the following year, and whether the foreman was a supervisor or agent of the employer or was viewed by employees as someone in a position to speak for management, and therefore whether his statement constituted a threat of job loss in the event of a particular union's victory.  
COASTAL BERRY COMPANY, LLC, 26 ALRB No. 1
- 324.02 Board overruled ES dismissal of objection and set for hearing question of whether forewoman told employees they should vote for particular union in order to save company from going under, and whether the forewoman was a supervisor or agent of the employer or would be viewed by employees as someone in a position to speak for management, and therefore whether her statement could reasonably be perceived by employees as a threat.  
COASTAL BERRY COMPANY, LLC, 26 ALRB No. 1
- 324.02 Board overruled ES dismissal of objection and set for hearing question of whether supporter of one union made a threat of violence against supporter of rival union and, if so, whether such threat created an atmosphere of fear or coercion tending to interfere with employee free choice.  
COASTAL BERRY COMPANY, LLC, 26 ALRB No. 1

- 324.04 IHE properly excluded proffered evidence of UFW's election misconduct where rival union failed to raise issues by timely-filed election objections.  
COASTAL BERRY COMPANY, LLC, 26 ALRB No. 2
- 436.02 The employer violated sections 1153(a) and (e) by its five month delay in providing the union with basic employee identification, wage hour and fringe benefit information relevant to the issue of effects bargaining.  
GREWAL ENTERPRISES, INC., (2000) 26 ALRB No. 5
- 462.05 A violation is committed at the time that an employer fails to give advance notice of its decision to close its operations so that meaningful effects bargaining may take place.  
GREWAL ENTERPRISES, INC., (2000) 26 ALRB No. 5
- 462.05 The Board overruled its decision in *Valdora Produce Company and Valdora Produce Company, Inc.*, (1984) 10 ALRB No. 3, to the extent that it failed to award the limited back pay remedy approved in *Transmarine Navigation Corp.* (1968) 170 NLRB 389 and *John V. Borchard, et al.* (1982) 8 ALRB No. 52.  
GREWAL ENTERPRISES, INC., (2000) 26 ALRB No. 5
- 462.05 The union in *Valdora Produce Company and Valdora Produce Company, Inc.*, (1984) 10 ALRB No. 3, was well within its rights when it chose to file an unfair labor practice charge rather than to continue effects bargaining in which it had been stripped of all leverage due to the lack of timely notice of the employer's closing.  
GREWAL ENTERPRISES, INC., (2000) 26 ALRB No. 5
- 600.01 IHE properly refused to allow employer to introduce evidence on last scheduled day of hearing where employer had moved to quash a subpoena seeking the same information and had submitted a response to the decertification petition, under penalty of perjury, which contained statements which were misleading, if not intentionally false, and were inconsistent with the evidence proffered at hearing.  
NASH DE CAMP COMPANY, 26 ALRB No. 4
- 606.01 UFW is not estopped from arguing for separate units because of its previous position that the unit should be statewide. UFW cannot be penalized for exercising its right to file election objections on the unit question, which is specifically included as a ground for objection in Labor Code sec. 1156.3(c).  
COASTAL BERRY COMPANY, LLC, 26 ALRB No. 2
- 606.01 Board's prior administrative rulings, even if construed to imply that Board would have found a single unit appropriate, did not preclude Board from making a contrary determination, exercising its sound discretion, in a subsequent proceeding. (*Pacific Greyhound Lines* (1938) 9 NLRB 557, 573 [3 LRRM 303].)  
COASTAL BERRY COMPANY, LLC, 26 ALRB No. 2